

§ 1446.601

7 CFR Ch. XIV (1–1–05 Edition)

accordance with this part to avoid a penalty.

(2) *Milled peanuts.* With prior notification to and approval by the marketing association, peanuts that are milled under supervision of the marketing association may be used to replace, in domestic edible use, quota peanuts that have been exported to an eligible country from the same crop, type, area, and of the same grade as recognized by the Peanut Administrative Committee (PAC) for edible quality grades. Such grades shall be established at the time the peanuts are milled and the lot is formed unless CCC directs otherwise in writing. The quota peanuts that are exported, for which substitution is requested, must have been positive lot identified and otherwise handled as additional peanuts under the supervision of the marketing association.

(b) *Use of additional peanuts for domestic edible uses prior to substitution—*(1) *General requirements.* Additional peanuts may be used for domestic edible use with prior notification and approval of the marketing association and upon presentation to the marketing association of an irrevocable letter of credit in an amount that is determined in the same manner as such handler's initial letter of credit for the quantity of peanuts that will be substituted. Such letter of credit is in addition to the letter of credit required in accordance this part as a condition for approval of contracts for additional peanuts. Such additional letter of credit for substitution shall be issued in a form and by a bank which is acceptable to CCC.

(2) *Submitting evidence of export.* The handler subsequently shall dispose of a like amount of quota peanuts in the manner prescribed in this part for contract additional peanuts. If the quota peanuts are exported, the handler shall subsequently deliver to the marketing association satisfactory evidence that a like amount of quota peanuts of the same type and of a similar grade has been exported. Such evidence must be submitted no later than the earlier of:

(i) 30 days after the final date for export as established in accordance with this part; or

(ii) 15 days prior to the expiration of the letter of credit.

(3) *Failure to timely submit evidence of export.* If satisfactory evidence is not presented by such date determined in (b)(2) of this section, CCC may authorize the marketing association to draw against the letter of credit for the full amount of the penalty which would otherwise be due for failure to dispose of contract additional peanuts in accordance with this part.

Subpart F—Handling Contract Additional Peanuts—Nonphysical Supervision

§ 1446.601 Disposition requirements under nonphysical supervision.

(a) *Disposition requirement.* With respect to any marketing year, a handler who has selected nonphysical supervision shall account for the disposition of any contract additional peanuts acquired by such handler by providing evidence that is satisfactory to the marketing association of the quantity of peanuts by peanut type that are crushed or exported by such handler in each of the following kernel categories:

- (1) SS kernels;
- (2) SMK's; and
- (3) AO kernels.

(b) *SS kernels.* (1) For each lot of contract additional peanuts acquired by such handler for which a deduction would have been applicable for SS kernels under the applicable price support loan schedule, deduct, from the percentage of SS kernels in such lot of peanuts, a number of percentage points equal to the maximum percentage of SS kernels that a lot of peanuts could contain without having a deduction for SS kernels under the applicable price support loan schedule and multiply the result by the total weight of the TKC content of the lot, excluding the weight of the LSK's in such lot.

(2) Determine separately, for each type of peanuts acquired by such handler, the total of the results obtained in paragraph (b)(1) of this section for all lots of contract additional peanuts acquired by such handler.

(3) For each type of peanuts acquired by such handler, multiply the result determined in paragraph (b)(2) of this section by 0.955 in order to provide an

allowance for shrinkage. The result is the minimum quantity of SS kernels of peanuts of the respective type that shall be crushed or exported by such handler.

(c) *SMK and SS kernels.* (1) Determine, by type, the total of the quantity of SMK and SS kernels in the lots of contract additional peanuts acquired during the marketing year by such handler.

(2) From the total determined in paragraph (c)(1) of this section, deduct the amount determined in paragraph (b)(2) of this section.

(3) For each type of peanuts acquired by such handler, multiply the results obtained in (c)(2) of this section by 0.955. The result is the minimum combined quantity of SMK's and SS kernels (excluding the quantity of SS kernels required to be crushed or exported as determined in paragraph (b)(3) of this section) of the respective type that shall be exported or crushed by such handler.

(d) *AO kernels.* (1) Determine, by type, the total quantity of TKC in the lots of contract additional peanuts acquired during the marketing year by such handler.

(2) From the total determined in paragraph (d)(1) of this section, deduct:

(i) The amount of SS kernels determined in paragraph (b)(2) of this section; and

(ii) The combined SMK's and SS kernels determined in paragraph (c)(2) of this section.

(3) Multiply the result determined in paragraph (d)(2) of this section by 0.955. The result is the total of the AO kernels of the respective type that shall be exported or crushed by such handler.

(e) *Substitution prohibited.* Disposition credit shall not be granted:

(1) To the obligation to export or crush SS kernels and SMK for any amount of AO kernels that may have been exported or crushed in excess of the quantity required in accordance with paragraph (d)(3) of this section.

(2) To the obligation to export or crush AO kernels for any amount of SS kernels and SMK's that may have been exported or crushed in excess of the quantity required in accordance with paragraph (c)(3) of this section.

(3) To the obligation to export or crush peanuts of a type, for a surplus amount of contract additional peanuts exported or crushed from another type.

(f) *Peanuts diverted.* Contract additional peanuts or peanut products made from contract additional peanuts diverted to any country other than eligible country shall not be credited in the handler's favor against the handler's obligation to crush or export such peanuts.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38330, Aug. 13, 1991]

§ 1446.602 Disposition credit for peanuts under nonphysical supervision.

(a) *Disposition credits.* Contract additional peanuts of the same crop year and of like type shall be disposed of in accordance with the provisions of this part. Disposition shall be by domestic crushing or by export to an eligible country. Disposition credit shall, subject to the provisions of this part, be granted for:

(1) Kernels that are crushed domestically under physical supervision of the marketing association representative; or

(2) Kernels that are exported for crushing, if fragmented before being exported; or

(3) Exported kernels that meet PAC outgoing quality standards for domestic edible use; or

(4) Peanuts that are exported as farmers stock peanuts, provided that such peanuts meet PAC incoming quality standards for Segregation 1 peanuts and are positive lot identified; or

(5) Peanuts that are exported to an eligible country as peanut products if such products are produced domestically in accordance with provisions of this part; or

(6) Peanuts that are exported as milled or in-shell peanuts if they meet PAC outgoing quality standards for domestic edible peanuts; or

(7) Peanuts that are exported as blanched peanuts; or

(8) Peanuts that are determined by the marketing association as having been destroyed or otherwise made unsuitable for any commercial purpose. In such case the peanuts shall be considered as crushed.